

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	No. 3:15-CR-176
v.)	
)	
GABRIEL CLIMACO MACHUCA,)	(VARLAN / GUYTON)
LAZARO CLIMACO MACHUCA, and)	
JOHN DOE,)	
aka FRANCISCO ESAU RODRIGUEZ SANCHEZ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on January 29, 2016, for an arraignment on the Superseding Indictment [Doc. 14], filed on January 5, 2016. Assistant United States Attorney Cynthia F. Davidson appeared on behalf of the Government. Attorney Stephen G. McGrath represented Defendant Gabriel Climaco Machuca. Assistant Federal Defender Paula R. Voss represented Defendant Lazarro Climaco Machuca. Attorney Russell T. Greene represented Defendant Sanchez Rodriguez. All three Defendants were also present and participated with the aid of an interpreter.

Following the arraignment, Attorney McGrath made an oral motion to continue the February 23, 2016 trial date, to give additional time to investigate the case and to prepare for trial. Neither the codefendants, nor the Government opposed the request to continue the trial. The parties agreed to a new trial date of March 15, 2016.

The Court finds the oral motion for a continuance to be well-taken and that the ends of justice served by granting a continuance outweigh the interest of the Defendants and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Superseding Indictment charges the Defendants with conspiracy to commit fraud in connection with identification documents and three counts of the unlawful production and transfer of identification documents. The new Indictment adds two counts and two codefendants. Defense counsel need time to review discovery, to interview witnesses and to prepare for trial. In light of the recent Superseding Indictment, the Court finds that the Defendants could not be ready for trial by February 23, 2016, or in less than one and one-half months. Thus, the Court finds that the failure to grant a continuance would deprive defense counsel of the reasonable time necessary to prepare for trial despite their use of due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, the Defendant Gabriel Climaco Machuca's oral motion to continue the February 23, 2016 trial date is **GRANTED**. The trial of this matter is reset to **March 15, 2016**. The Court also finds that all the time between the **January 29, 2016** hearing, and the new trial date of **March 15, 2016**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. See 18 U.S.C. § 3161(h)(7)(A)-(B). The Court set a new discovery deadline of **February 1, 2016**. The deadline for filing pretrial motions is extended to **February 22, 2016**. Responses to pretrial motions are due on or before **March 3, 2016**. The parties are to appear before the undersigned for a pretrial conference on **March 4, 2016, at 1:30 p.m.** This date shall also be the deadline for concluding plea negotiations and providing reciprocal discovery. The Court instructs the parties that all motions *in limine* must be filed no later than **March 1, 2016**. Special requests for jury instructions shall be submitted to the District Judge no later than **March 7, 2016**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED**:

(1) Defendant Gabriel Climaco Machuca's oral motion to continue the trial is **GRANTED**;

(2) The trial of this matter is reset to commence on **March 15, 2016, at 9:00 a.m.**, before the Honorable Thomas A. Varlan, Chief United States District Judge;

(3) All time between the hearing on **January 29, 2016**, and the new trial date of **March 15, 2016**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;

(4) The Government's discovery deadline is extended to **February 1, 2016**;

(5) Pretrial motions are due on or before **February 22, 2016**. The deadline for responding to pretrial motions is **March 3, 2016**;

(6) Motions *in limine* must be filed no later than **March 1, 2016**;

(7) A pretrial conference before the undersigned is set for **March 4, 2016, at 1:30 p.m.** This date is also the deadline for concluding plea negotiations and providing reciprocal discovery; and

(8) Special requests for jury instructions with appropriate citations shall be submitted to the District Court by **March 7, 2016**.

IT IS SO ORDERED.

ENTER:


United States Magistrate Judge